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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,961	10/15/2004	Marty Williams	GearCrate	5960
23217	7590	10/16/2008	EXAMINER	
GLENN L. WEBB			GROSSO, HARRY A	
GLENN L. WEBB P.C.				
P.O BOX 951			ART UNIT	PAPER NUMBER
CONIFER, CO 80433			3781	
			MAIL DATE	DELIVERY MODE
			10/16/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,961	WILLIAMS, MARTY	
	<b>Examiner</b>	<b>Art Unit</b>	
	HARRY A. GROSSO	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 July 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3,5-12 and 14-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5-7,10-12,14-16 and 19 is/are rejected.  
 7) Claim(s) 8,9,17 and 18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 15 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

The objection to the drawings has been overcome by the amendment filed July 7, 2008. The objection is withdrawn.

The rejection of claim 20 under 35 U.S.C. 112, second paragraph, has been overcome by the amendment filed July 7, 2008. The rejection is withdrawn.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites securing said assembled first set of structural tubes to said assembled second set of structural tubes with a securing mechanism by engagement through said open slots against said overlapping lips. It is unclear whether the open slots and overextending lips are from the first set of beams or the second set of beams, or both or how the securing mechanism secures the assembled sets by engaging the slots and beams.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 6, 10, 12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (5,520,316).
5. Regarding claim 1 and 10, Chen discloses a crate system (Figures 1-3, column 1, lines 60-67)) with a first set of structural tubes (14), a first set of beams (11) with slots and lips and a fastening mechanism (Figure 3) for securing the tubes to the beams in a spaced relationship to one another through the slots.
6. Regarding claims 3 and 12, Chen discloses the first set of tubes is substantially U shaped in that the vertical bars (142) form a U with each of the cross bars (141).
7. Regarding claims 6 and 15, Chen discloses the first set of tubes is substantially U shaped and the fastening mechanism secures the tubes in an upright position spaced from each other.
8. Claims 1, 2, 7, 10 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Haenszel (6,123,208).
9. Regarding claims 1 and 10, Haenszel discloses a crate system (Figures 1-4) with a first set of structural tubes (130, Figure 4) and a first a set of beams (37) with slots and lips and a fastening mechanism for securing the tubes to the beams in a spaced relationship to one another (Figure 4) through the slots. The beams and tubes are located at one end of the crate.
10. Regarding claim 2, Haenszel discloses a second set of tubes and beams with the tubes secured to the beams in a spaced relationship to one another (Figure 4) through the slots. The second set of beams and tubes being located at the opposite end of the

crate. The longitudinal beams (45, 50) provide the mechanism securing the first set of tubes to the second set of tubes.

11. Regarding claims 7 and 16, Haenszel discloses a second set of tubes and beams with the tubes secured to the beams in a spaced relationship to one another (Figure 4) through the slots. The second set of beams and tubes being located at the opposite end of the crate. The mechanism securing the first set of tubes to the second set of tubes comprises longitudinal beams (45, 50) with the fasteners securing the beam segment 50 to the beam segment 45, thus securing the first and second sets of beams.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen. Chen discloses the invention with the components of the crate system assembled to each other using screw knobs and it would have been obvious to one of ordinary skill in the art at the time the invention was made that the crate could be disassembled by loosening the screw knobs and reversing the assembly procedure described in column 2, lines 1-44 of Chen.

14. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Attwood, of record. Chen discloses the invention including a threaded fastener engaging through each of the structural tubes to a sliding piece in the open slot

but does not teach the use of spring nuts mounted in the open slot. Attwood discloses the use of a slotted beam and spring nuts for securing one component to another in a manner that allows easy movement of one component relative to the other by any amount desired. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of spring nuts as disclosed by Attwood in the crate system disclosed by Chen since the spring nuts are a type of sliding piece known in the art for this type of application.

***Allowable Subject Matter***

15. Claims 8, 9, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
16. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

17. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY A. GROSSO whose telephone number is (571)272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony D Stashick/  
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